

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JAMAR GOLSON,

Plaintiff,

v.

EDWARD M. BIRDSONG, et al.,

Defendants.

Case No. 16-cv-00158 NC (PR)

ORDER OF DISMISSAL

Plaintiff Jamar Golson, a California state prisoner proceeding *pro se*, filed a civil rights complaint under 42 U.S.C. § 1983, alleging that Defendants Nurse Rosanne Andres and Dr. Edward Birdsong were deliberately indifferent to his serious medical needs.¹ On September 8, 2017, the Court granted Nurse Andres' motion for summary judgment. Dkt. No. 34. On September 27, 2017, counsel for Dr. Birdsong filed a suggestion of death of Dr. Birdsong, pursuant to Federal Rule of Civil Procedure 25(a). The suggestion indicated that Dr. Birdsong passed away on February 9, 2017. Dkt. No. 35.

¹ On January 29, 2016, Plaintiff consented to magistrate judge jurisdiction. On May 23, 2016, Defendants consented to magistrate judge jurisdiction.

1 Federal Rule of Civil Procedure 25(a)(1) provides for the dismissal of a party if a
2 motion for substitution is not made within ninety days after service of a statement noting
3 that party's death. Fed. R. Civ. P. 25(a)(1). Two things are required of a party for the
4 running of the ninety-day period to commence: a party must 1) formally suggest the death
5 of the party on the record, and 2) serve the suggestion of death on the other parties and
6 nonparty successors or representatives. *Barlow v. Ground*, 39 F.3d 231, 233 (9th Cir.
7 1994). Both requirements have been met. More than ninety days have passed since the
8 filing of the suggestion of death, and the Court has not received a motion for substitution.
9 Accordingly, Dr. Birdsong is **DISMISSED**.

10 The Clerk shall terminate the case, enter judgment for Nurse Andres, and close the
11 file.

12 **IT IS SO ORDERED.**

13 DATED: January 18, 2018

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15 NATHANAEL M. COUSINS
16 United States Magistrate Judge
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